



Virginia Stephens
10/25/2001 03:29:11 PM

Record Type: Record

To: Andrea Sarzynski/WHO/EOP@EOP
cc:
Subject: RISEP/Tennessee Pipeline Project

----- Forwarded by Virginia Stephens/CEQ/EOP on 10/25/2001 03:32 PM -----



Scott Segal <ssegal@bracepatt.com>
10/22/2001 07:49:11 PM

Record Type: Record

To: Veronica.Angulo@hq.doe.gov
cc: Virginia Stephens/CEQ/EOP
Subject: RISEP/Tennessee Pipeline Project

Veronica, VA Stephens said that I should forward this documentation regarding a project submitted to the Energy Streamlining Task Force. The important part about this is that FERC must take action quickly in order to make sure that the project will be available for summer peaking demand. Thanks for your attention to this. We would be happy to arrange a meeting or teleconference to review the matter further.
SS

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First Submission: Oct. 19, 2001:

To: Jim Connaughton
Chair, Council on Environmental Quality

From: Scott Segal
Bracewell & Patterson, LLP

Date: October 19, 2001

It is our understanding that the comment period regarding materials for consideration before the Energy Streamlining Task Force has been extended to October 31, 2001. The Task Force seeks information regarding projects and agency processes that could be expedited pursuant to the President's Executive Order 13212, signed on May 18, 2001. This Executive Order, recognizing the importance of environmentally sound production and transmission of energy, seeks to expedite agency review of permits and other certification, and to accelerate the completion of energy-related projects. We wish to draw the attention of the Task Force to the Rhode Island State Energy Partners, L.P. ("RISEP") project in Johnston, RI, and to the Tennessee Gas Pipeline Company's ("Tennessee") related application to FERC for authorization to construct, own and operate facilities to transport natural gas to RISEP.

Name of the Project: (1). Rhode Island State Energy Partners, L.P. - a 535 MW new, state-of-the-art, natural gas-fired electric generating plant in Johnston, RI; (2) Tennessee Gas Pipeline Company's authorization to construct, own and operate a lateral line compressor station and a tap and meter station in order to provide gas transportation service to RISEP.

Entity Proposing the Project: As discussed above.

Category of the Project: Electricity Generation; related pipeline facilities.

Brief Description of the Project: See Attachments.

Agency from which Approval is Needed: Federal Energy Regulatory Commission

Reason for Bringing Project to Task Force's Attention: As suggested in the Attachments, the RISEP project is an extremely clean and modern combined-cycle natural gas-fired electric generating plant that is more than fifty percent complete. The RISEP project is, of course, dependent on transportation of adequate supplies of natural gas. Tennessee has agreed to provide gas transportation, and needs to construct and operate a compressor station (to be located at the Ocean State Power site) and a tap and metering station to be located at RISEP. Because eleventh-hour objections have been raised to the compressor station construction, it is now possible that RISEP will be delayed, to the disadvantage of Northeastern consumers and the environment.

It is our understanding that the Task Force is interested in any such delays related to major, environmentally-sensitive energy projects.

Suggestions: It is our understanding that FERC has pending before an application and request for expedition (Docket No. CP01-404-000). RISEP believes that speedy and affirmative consideration of this application and request best advances the President's goals as articulated in Executive Order 13212.

Attached for your review is the cover letter from RISEP counsel to FERC and the Comments of RISEP in the matter. Under separate cover, we will transmit the certificate filings of Tennessee in this matter, and its answer to objections to its proposal. Please let us know if you need further information or if you have additional questions.

Scott H. Segal
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Supplement to Original Filing: October 22, 2001

Dear Energy Streamlining Task Force:

On Friday, we sent material regarding the RISEP project in Rhode Island, and the necessity for timely FERC action on the related natural gas compressor and metering stations to be constructed, owned and operated by Tennessee Gas Pipeline Company. The FERC Docket is No. CP01-404.

Specifically, the two detractors to speedy action are a small group of landowners and one competing customer on the Tennessee pipeline. I wanted each of you to see the specific arguments being made and the responses to them. Therefore, I have attached the very brief response filed before FERC by Tennessee. Sections II and III are the most instructive.

The bottom line is that a timely decision by FERC is essential to bring adequate power on line to meet peaking energy demand in the Northeast. Action by the beginning of November is the most optimal in this case.

Please let me know if I can answer other questions or assist in any way. Thanks again for your consideration.

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- CvrLtr1.doc



- Commts1.doc



- Tenn Gas.pdf

October 19, 2001

The Honorable David P. Boergers
Secretary
Federal Energy Regulatory Commission
888 First Street, N.E.
Room 1-A, Dockets Room
Washington, D.C. 20426

Re: *Tennessee Gas Pipeline Company*, Docket No. CP01-404

Dear Mr. Boergers:

Enclosed for filing with the Commission are an original and 14 copies of the comments of Rhode Island State Energy Partners, L.P. ("RISEP") on the October 11, 2001, filing made by Tennessee Gas Pipeline Company ("Tennessee") in this docket, **and a request by RISEP for expedited action by the Commission, no later than November 1, 2001**, on Tennessee's application for a certificate submitted in this docket. In its certificate application, Tennessee proposes to construct and operate compressor and tap and meter station facilities to provide gas transportation service for RISEP's new electric generating plant under construction in Johnston, Rhode Island and for Providence Gas Company. Tennessee originally submitted its filing in this docket as a prior notice filing under Tennessee's blanket certificate. However, due to certain protests that were not withdrawn, this proceeding has become a full Section 7 case.

RISEP needs to commence testing its plant **on February 1, 2002**, and is planning to commence operations no later than **July 1, 2002**, in time to serve the summer peak needs of Rhode Island and New England electricity customers. In order to meet RISEP's testing and commercial operation dates, Tennessee needs to start building its facilities to serve RISEP as soon as possible.

Accordingly, RISEP urges the Commission to act on Tennessee's certificate application as soon as possible, but no later than November 1, 2001.

Thank you for your assistance in connection with this filing.

Very truly yours,

Bracewell & Patterson, L.L.P.

Charles H. Shoneman

CHS/djr
149987.1

The Honorable David P. Boergers

October 19, 2001

Page 2

cc: All Parties

Randy Mathura

Richard Hoffman

Mark Robinson

Robert Schroeder

Federal Energy Regulatory Commission

**UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION**

**IN THE MATTER OF

TENNESSEE GAS PIPELINE
COMPANY**

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DOCKET NO. CP01-404-000

**COMMENTS OF RHODE ISLAND STATE ENERGY PARTNERS, L.P.
IN SUPPORT OF SECTION 7 APPLICATION AND REQUEST
FOR EXPEDITION**

This proceeding concerns Tennessee Gas Pipeline Company's ("Tennessee") prior notice filing made pursuant to its blanket certificate and Section 157.205 of the Commission's regulations for authorization to construct, own and operate a lateral line compressor station and a tap and meter station in order to provide transportation service for Rhode Island State Energy Partners, L.P.'s ("RISEP") new electric generating plant and for Providence Gas Company. As a result of protests to Tennessee's filing that were not withdrawn, pursuant to Section 157.205(f) of the Commission's regulations this proceeding has been converted to a full Section 7 case. On October 11, 2001, Tennessee made a filing supplementing the record in this proceeding to provide the Commission with the information required for a full Section 7 certificate case. RISEP is filing these comments in support of Tennessee's October 11, 2001, filing and its construction project proposed in this proceeding. RISEP urgently requests the Commission to grant Tennessee's certificate application as soon as possible, but no later than November 1, 2001. Expedition of Commission action is critical to RISEP.

I.

RISEP is building a new state of the art, natural gas-fired 535 MW electric generating plant in Johnston, Rhode Island. Construction of the plant is more than 50% complete and the plant will be ready to receive gas for an extended, mandatory safety and reliability focused

testing and equipment start-up program scheduled to begin on **February 1, 2002**. RISEP must begin this effort on a timely basis in order to achieve its plan to commence commercial operations on **July 1, 2002**. Due to the importance of a timely plant start-up, RISEP has even committed to a multimillion dollar incentive program with its Engineering Procurement and Construction Contractor to encourage acceleration of the commercial operation date. RISEP is relying on Tennessee to transport the gas to fuel RISEP's plant.

RISEP's plant received a Certificate of Critical Economic Concern ("CCEC") in August 1998 from the Rhode Island Economic Development Corporation. The plant has been determined by the Rhode Island Energy Facility Siting Board to have significant economic and growth benefits for the State of Rhode Island. Subsequently, the Economic Development Corporation extended the CCEC designation to include Tennessee's compressor and metering facilities proposed for RISEP. The CCEC determination signifies that the project has sufficient economic development impact to warrant expedited review by Rhode Island governmental authorities.

Rhode Island citizens will benefit directly from operation of RISEP's plant because it will be replacing higher-cost, higher-emission facilities. RISEP's plant will be one of the cleanest burning electric generation plants in the United States. RISEP's plant will be among the first operating plants of its size in the United States to meet a 2ppm nitrogen oxide emission rate with 5ppm ammonia slip. Cooling water for the plant will be municipal gray water that was formerly discharged to a local river. RISEP will add significant additional treatment to this water and use it for cooling, totally avoiding the use of potable water for such purpose. RISEP's plant site, located in an industrial park area, was formerly a borrow pit area, which the RISEP project totally reclaimed. Additionally, RISEP financed and will turn over to the town of

Cranston, Rhode Island, a 13-mile gray water supply and return line, with oversized return mains to allow the future construction and tie-in of sewers in western Cranston.

RISEP's plant will also have a positive impact on employment within Rhode Island. Three hundred workers have been employed during construction of the plant, and twenty-four permanent jobs will be created to operate and maintain the plant.

The plant will be connected to the Rhode Island regional electric transmission at 115 kV. Thus, the plant will provide power and "local" voltage support to Rhode Island as part of the electric transmission grid that serves New England. If transmission ties to other parts of New England are overloaded due to high demand (as may be experienced during peak summer demand periods), RISEP's plant has a better chance of supporting Rhode Island's generation needs.

In sum, Tennessee's construction project is (in part) to serve an important new electric generating plant. No party to this proceeding has objected to Tennessee's proposal to serve RISEP's needs.

II.

With its October 11, 2001 filing, Tennessee has provided the Commission with the information that it needs to process Tennessee's filing as a full Section 7 application. Tennessee has also addressed the protests to its construction project. The record before the Commission should be complete. RISEP believes that Tennessee has shown that the protests lack merit and that grant of its certificate application is plainly in the public interest.

III.

Tennessee has also requested expedited approval of its construction project. RISEP supports Tennessee's request for expedition and urges the Commission to act as soon as possible on Tennessee's certificate filing.

Tennessee will need sufficient lead time to construct its facilities necessary to provide RISEP with the services it requires. Again, RISEP needs gas to begin testing its plant and related gas delivery facilities, including Tennessee's metering and regulation facilities, which are a part of this project, **on February 1, 2002**, and to commence commercial operations **between June 20, and July 1, 2002**. Tennessee has asked the Commission to grant its application no later than November 1, 2001. If the Commission acts by this date, RISEP expects that Tennessee will be able to complete the facilities necessary for RISEP to begin delivering testing and start-up gas by February 1, 2002, and to commence commercial operations by at least July 1, 2002.

If Tennessee is unable to complete construction of its facilities proposed in this proceeding on a timely basis, RISEP's plant may not be available to the Rhode Island and New England electric transmission grids for service during the summer of 2002, as expected by the New England ISO. This could contribute to the same type of extreme capacity shortfall risks that New England experienced during the summer of 2001. Furthermore, RISEP will fall behind in its project schedule, potentially exposing **many entities** to significant harm. Specifically, tens of millions of dollars are at risk for RISEP and its contractor teams. Moreover, numerous third parties are relying on the timely commercial operation of this project as a result of contractual commitments for the supply of fuel and municipal, gray water to operate the facility, the delivery of economic power from RISEP to meet load serving entity obligations, and adherence to community tax payment obligations.

RISEP supports Tennessee's request for early Commission action **on Tennessee's complete project**, *i.e.*, Tennessee's proposed compressor and the tap and meter station for RISEP. RISEP echoes Tennessee's request for action on the complete project by November 1, 2001. Prompt grant of a certificate for the complete project will enable Tennessee to commence promptly the construction of the facilities required to provide both the transportation capacity and the pressure needed for RISEP to test the plant and commence commercial operation of the plant before the summer of 2002.

If the Commission is unable to act on Tennessee's complete project by November 1, 2001, then RISEP supports Tennessee's alternative request that, at a minimum, Tennessee be authorized to construct the proposed tap and meter facilities as quickly as possible, but no later than November 1, 2001. As described in Tennessee's October 11, 2001 filing, this would enable Tennessee to provide some transportation service to RISEP for testing while the Commission processes the balance of Tennessee's filing. However, this limited action will not eliminate the potential damage to RISEP and third parties, as described above; only favorable action on all aspects of Tennessee's construction project will prevent this potential harm.

On May 18, 2001, the President signed Executive Order 13212 recognizing the importance of environmentally-sound production and transmission of energy to the American public. The order established a federal interagency task force chaired by the Chairman of the Council on Environmental Quality. The task force is charged with monitoring the efforts of federal agencies to expedite their review of permits or take other actions necessary to accelerate completion of energy-related projects, while maintaining safety, public health, and environmental protections.

In the spirit of this Executive Order, RISEP urges the Commission to act promptly on Tennessee's certificate application in this proceeding. A copy of the Executive Order is attached to these comments.

WHEREFORE, RISEP supports Tennessee's certificate application and urges the Commission to grant it expeditiously so that RISEP will be able to bring its new electric generating plant project on line as scheduled.

Respectfully submitted,

Charles H. Shoneman
Bracewell & Patterson, L.L.P.
A Registered Limited Liability Partnership
2000 K Street, N.W., Suite 500
Washington, D.C. 20006
(202) 828-5800

Attorney for
**RHODE ISLAND STATE ENERGY
PARTNERS, L.P.**

October 19, 2001

CERTIFICATE OF SERVICE

Pursuant to Rule 2010 of the Commission's Rules of Practice and Procedure, I hereby certify that I have this day served a copy of the foregoing on all persons designated on the official service list compiled by the Secretary in this proceeding.

Dated at Washington, D.C. this 19th day of October 2001.

Charles H. Shoneman

RECEIVED

SEP 27 2001

**UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION**

BRACEWELL & PATTERSON

In the Matter of

Docket No. CP01-404-000

Tennessee Gas Pipeline Company

**MOTION FOR LEAVE TO ANSWER
AND ANSWER OF TENNESSEE GAS PIPELINE
COMPANY TO PROTESTS**

Tennessee Gas Pipeline Company ("Tennessee"), pursuant to Rules 212 and 213 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission ("Commission"), 18 C.F.R. §§ 385.12 and 385.213, hereby requests leave to file an answer and answers the protests filed by Consolidated Edison Company of New York, Inc., and Orange and Rockland Utilities, Inc. ("Con Ed") on September 10, 2001, and David and Jamie Droste, Shane and Roelene Hopkins, Lawrence O'Brien, Al Perschilli, Alan and Carol Henry, David and Eleanor Vanable, and Robert and Maryellen Adams, Thomas J. Gormley, Kathy and Michael Hassell, FE and K DeSister, Richard Muscato, Ralph Billington, and Joseph and Karen Taylor (collectively, the "Residents"), in the referenced proceeding. In support hereof, Tennessee respectfully states as follows:

I. MOTION FOR LEAVE TO ANSWER

Rule 213(a)(2) of the Commission's Rules of Practice and Procedure provides that answers to protests are generally not allowed, "unless otherwise ordered by the decisional authority." 18 C.F.R. § 385.213(a)(2). However, in the past, the Commission has allowed the filing of answers to protests for various reasons demonstrating good cause. The Commission has historically found that good cause exists to allow an answer

when the answer responds to new issues raised in a protest, will lead to a more accurate and complete record, will help the Commission understand the issues, or will provide useful and relevant information that will assist in the decision-making process.¹

Tennessee submits that good cause exists to grant Tennessee leave to respond to Con Ed's and the Residents' protests. Tennessee's response provides relevant information and will lead to a more accurate and complete record, which will assist the Commission in reaching a decision in this proceeding. For these reasons, Tennessee respectfully requests that, for good cause shown, the Commission waive its regulations to accept the following answer.

II. BACKGROUND

On July 16, 2001, Tennessee filed an application for authorization to construct, own, and operate a compressor station on its Rhode Island Lateral Line No. 265E-100 and to construct, own, and operate a meter station in order to provide transportation service to the Rhode Island State Energy Partners, L.P. ("RISEP") electric generating plant and to the Providence Gas Company ("Providence"). Prior to the expiration of the 45-day notice period, Con Ed and the Residents filed various protests to Tennessee's project.

Collectively, the Residents' protests allege that the electric generating plant operated by Ocean States Power ("OSP") is unduly noisy and that Tennessee's facility will increase noise in the area. The Residents also contend that Tennessee's facility

¹ See, e.g., Transwestern Pipeline Co., 75 FERC ¶ 61,351 (1996); Tennessee Gas Pipeline Co., 55 FERC ¶ 61,437, at 62,306 n.7 (1991); Central Nebraska Public Power and Irrigation District, 51 FERC ¶ 61,257, at 61,737 n.6 (1990); Northwest Central Pipeline Corp., 34 FERC ¶ 61,301, at 61,553 n.10 (1996).

somehow violates siting restrictions imposed by a state agency upon OSP. They also raise various, wholly unsupported safety and environmental objections.

Con Ed has no objection to the construction of the proposed facilities or services. Con Ed's protest primarily disputes whether Tennessee's project involves work on an "eligible facility" that would qualify for a presumption in favor of rolled-in pricing. Secondly to that issue, Con Ed questions whether the project has been segmented from another project.

III. ARGUMENT

A. The Residents' Protests Are Groundless and Unsupported.

The Residents' protests primarily focus on issues related to OSP's plant. OSP is unrelated to Tennessee and the operation of the OSP plant is independent of Tennessee's proposed project. To the extent the Residents have unresolved issues with OSP, this proceeding is not the proper forum for raising them. Accordingly, such protests should be dismissed and/or rejected.

Tennessee's application properly demonstrated that its project will operate within the noise, safety, and environmental regulations imposed upon it. See Attachment B to Tennessee's Application. Many of the issues raised by the Residents' protests stem from local noise and zoning issues that are preempted by the Commission's jurisdiction. Tennessee's application and supporting attachment clearly demonstrate that the project will operate below the Commission's prescribed noise limits. The Residents' protests, even if otherwise properly raised herein, lack *any* factual support. Issues regarding lightning strikes, non-impacted wetlands, etc., are frivolous at best. The Residents' protests are therefore facially deficient and should be dismissed.

B. Con Ed's Protest Likewise Lacks Merit.

Con Ed's challenge to the classification of Tennessee's line as a mainline, as opposed to a lateral, is meritless. The Commission has consistently referred to the Rhode Island Extension as a lateral. As such, the line qualifies as an "eligible facility" under 18 CFR § 157.208(b). In the Commission's Order Issuing Certificate in Docket Nos. CP87-131 and CP87-132, the Commission expressly refers to the pipeline as a lateral a total of nine times. Tennessee Gas Pipeline Co., 45 FERC ¶ 61,010, at 61,036, 61,039, 61,043, 61,053 (1988). Additionally, the Commission states that the facilities to be discussed include a "new pipeline *lateral* in Rhode Island which consists of the first leg of the Rhode Island Extension." 45 FERC at 61,036 (emphasis added).

In the Commission's Order Issuing Certificate in Docket No. CP87-75, the Rhode Island Extension is again labeled as a lateral. In that Order, the Commission refers to the entire project, including the 10.7-mile section as well as the 25.3-mile section, as the Rhode Island sales lateral. Tennessee Gas Pipeline Co., 47 FERC ¶ 61,227, at 61,793 and n.2 (1989). In this same order, the Commission acknowledges the pipeline as a lateral by stating "Tennessee was authorized to construct the 10.7-miles 20 inch portion of the proposed Rhode Island sales *lateral*" 47 FERC at 61,794. (emphasis added). Moreover, the Commission specifically states that "Tennessee's proposed sales *lateral* route follows existing power line rights-of-way for 47 percent of its length, generally avoids heavily developed areas" 47 FERC at 61,796 (emphasis added). In this particular order, the Commission uses the word "lateral" to refer to the Rhode Island Extension a total of thirteen different times. 47 FERC at 61,792, 61,793, 61,794, 61,796, 61,797, 61,800.

The Commission and Tennessee are not the only parties that refer to the Rhode Island Extension as a lateral. Algonquin Gas Transmission Company has also referred to the project as a lateral in proceedings before the Commission. See e.g., 47 FERC at 61,796.

Con Ed's argument centers on the Commission's use of the term "mainline" one time in reference to the Rhode Island Extension. Tennessee Gas Pipeline Co., 85 FERC ¶ 61,192, at 61,790 (1998). As noted above, the Commission has consistently referred to the Rhode Island Extension, both the northern section and the southern section, as a lateral. One reference to the project as a mainline in a context unrelated to the issue at hand here, however, is insufficient to infer that the Commission holds the Rhode Island Extension as a mainline for all intents and purposes, if at all. This is particularly true given that the Commission refers to the Rhode Island Extension as a lateral at least four times in the very same order cited by Con Ed. See 85 FERC at 61,790, 61,791, and 61,792.

Apart from the issue of the line's classification, Con Ed's purported "sole concern" is a fear of being required to subsidize the services to RISEP and Providence. Tennessee anticipates that the revenues derived from the additional services to RISEP and Providence will exceed the estimated incremental cost of service of the proposed facilities. Thus, rolled-in treatment of the project will not cause Con Ed (or other customers) to "subsidize" this project. Because Con Ed will in no way subsidize the project, its "sole concern" of a rate subsidy, which formed the impetus for its challenge to the line's classification as an eligible facility, should not be a factor in the Commission's decision to authorize Tennessee's construction of the proposed facilities.

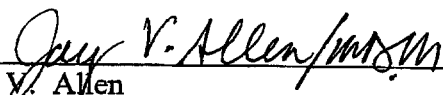
Con Ed's speculation that this project is somehow related to Tennessee's Dracut Expansion (Docket No. CP01-360) should be summarily dismissed. Con Ed offers absolutely no evidence to support its conjecture. Tennessee responded to a data request from Commission Staff in the Dracut proceeding (a copy of which is attached) and adequately explained the distinction between the two projects. Additionally, the flow diagram Tennessee filed in response to Commission Staff's data requests demonstrates that, with the compression requested herein, Tennessee will be able to provide service to its customers independent of the Dracut project. If the Commission's Staff had any belief that Tennessee had improperly segmented this project, it could have (and likely would have) filed a protest in this matter. Con Ed's meritless guesswork should not be allowed to delay the issuance of Tennessee's certificate.

IV. CONCLUSION

For the reasons stated above, the protests filed by the Residents and Con Ed are meritless and should be dismissed.

Respectfully submitted,

TENNESSEE GAS PIPELINE COMPANY



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